

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x Civil Action No. :
FEDEX CORPORATE SERVICES, INC.,

Plaintiff,

COMPLAINT

- against -

JURY DEMANDED

PARK IRMAT DRUG CORP. d/b/a IRMAT PHARMACY,

Defendant.
----- x

Plaintiff, FEDEX CORPORATE SERVICES, INC., by its attorneys, Klapper & Fass, complaining of defendant, PARK IRMAT DRUG CORP. d/b/a IRMAT PHARMACY, alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction based on diversity of citizenship pursuant to 28 U.S.C. § 1332, in that plaintiff has its principal place of business in and is a citizen of a state which is different from the state in which defendant is a citizen. The amount in controversy exceeds Seventy Five Thousand (\$75,000.00) Dollars, exclusive of interest.

2. Venue is proper in this district pursuant to 28 U.S.C. § 1391 (a)(1) in that the defendant resides in this district.

THE PARTIES

3. Plaintiff is a Delaware corporation with its principal place of business located at 3965 Airways Blvd. Module G, 3rd Floor, Memphis, TN 38116. Plaintiff is a wholly owned subsidiary of Federal Express Corporation (“FedEx”).

4. Plaintiff is the owner of the receivables of certain transportation services provided by FedEx Express and/or FedEx Ground.

5. Defendant, PARK IRMAT DRUG CORP. d/b/a IRMAT PHARMACY is a New York domestic business corporation and does business under the style and name of IRMAT PHARMACY with a place of business at 2 Park Avenue, New York, NY 10016.

COUNT ONE

6. Prior hereto, FedEx and/or its related entities agreed to provide defendant with transportation services (the “Services”), including picking up, transporting and delivering packages, letters and/or documents at defendant’s special instance and request.

7. In connection with the provision of the Services, defendant established a credit account whereby the price for the Services requested by defendant was charged and accrued to defendant’s account.

8. For each Service requested by defendant, a shipping document was generated whereby defendant agrees to be bound by the terms and conditions of the shipping documents, the *FedEx Service Guide* and any published tariffs.

9. Between in or about July 2016 and March 2017, the Services were duly rendered to defendant in accordance with the shipping documents and the *FedEx Service Guide*.

10. For each of the Services rendered, defendant was sent an invoice.

11. The total amount of such invoices is \$140,180.32.

12. Demand for payment has been duly made by plaintiff.

13. Defendant has failed and refused to pay the invoices totaling \$140,180.32.

14. The terms and conditions of the shipping documents and the *FedEx Service Guide* provide that customers are responsible for costs of collection, including, but not limited to, attorneys' fees, collection agency fees, interest and court costs.

15. By reason of the foregoing, plaintiff has been damaged in the amount of \$140,180.32, plus interest from March 30, 2017.

COUNT TWO

16. Plaintiff repeats and re-alleges paragraphs 6 through 14, inclusive, as though more fully set forth herein at length.

17. Defendant has unjustly benefited from its refusal to make such payments.

18. By reason of the foregoing, plaintiff has been damaged in the amount of \$140,180.32, plus interest from March 30, 2017.

COUNT THREE

19. Plaintiff repeats and re-alleges paragraphs 6 through 14, inclusive, as though more fully set forth herein at length.

20. Prior hereto, an account was stated between plaintiff and defendant for the stated amount of each such invoice as well as the total amount of all of the invoices, and upon the account stated it was found that there was due to plaintiff from defendant the sum of \$140,180.32.

21. Defendant did not object to said statements and the sum stated remains unpaid, although the same has been demanded.

22. By reason of the foregoing, plaintiff has been damaged in the amount of \$140,180.32, plus interest from March 30, 2017.

WHEREFORE, plaintiff demands Judgment against defendant as follows:

1. On Count One in the amount of \$140,180.32, plus interest from March 30, 2017;
2. On Count Two in the amount of \$140,180.32, plus interest from March 30, 2017;
3. On Count Three in the amount of \$140,180.32, plus interest from March 30, 2017;
4. Reasonable attorneys' fees; and
5. Such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues in this action.

Dated: White Plains, New York
July 18, 2017

KLAPPER & FASS
Attorneys for Plaintiff



By: _____
Daniel A. Fass
170 Hamilton Avenue, Suite 318
White Plains, New York 10601
(914) 287-6466